IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL NO. 1392 OF 1981

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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SURENDRA MOHAN BAHADUR KAPIL - Appellant(s)
Versus
DEVJIBHAI B. CHAUDHARY & ORS. - Respondent(s)

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Appearance :
Shri Jigar Raval for Shri M.C. Bhatt for Appellant(s).
None for Respondent No.1 (Deleted).
Shri Rajni H. Mehta for Respondent Nos.2 & 3.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 13/06/2007

ORAL JUDGMENT

Being aggrieved by the award dated 27th October, 1980 made by the learned Member, Motor Accident Claims Tribunal No.4 (Auxiliary), Ahmedabad in Motor Accident Claims Petition No.127 of

1979, the appellant-original claimant has filed this appeal seeking enhancement in the compensation amount.

2. As the respondents have not filed any cross appeal or cross objections, I will have to hold that the responsibility of the respondents now cannot be challenged. Under the circumstances, it is not necessary even to refer to the facts, which led to filing of the claim petition.

3. Shri Raval, learned Counsel for the claimants, submits that in view of the injuries suffered by the claimant, the award of sum of Rs.7,500/- towards pain, shock and suffering was suffering with the vice of low compensation and the same deserves to be enchanced. According to him, the claimant remained as an indoor patient for a period of five days and had to take leave for two months and had suffered shock and pain as a house patient for a period of two months. His submission is that in any case, the amount under the head of “pain, shock and suffering” could not be less than Rs.15,000/-.

4. Shri Rajni H. Mehta, learned Counsel for the respondents, on the other hand, submitted that the claimant had suffered two simple injuries, there was no fracture nor it was observed in the medical report that the claimant had suffered rupture of ligament or any fracture of the joints. He submits that for two simple injuries, the award of Rs.7,500/- is

rather on the higher side.

5. From the records, it would appear that the claimant had suffered contused lacerated wound of 2.5” x 1' x 1' over left ankle, which was irregular in shape. The other injury suffered by the claimant was abrasion of 2”x 1” on temporal region. The temporal region only shows the length and breadth, it does not show the depth. While the injury on the left ankle shows that it was around 1” deep. True it is that when somebody suffers an injury, he suffers pain, shock, etc. and for some time, the ordinary enjoyment of the life is also curtailed. In the present case, the learned Tribunal had awarded a sum of Rs.5,000/- towards loss of income of two months as the claimant was on medical leave, Rs.600/- towards medicine and medical charges, Rs.450/- towards special attendant charges and a sum of Rs.450/- for transportation. At the same time, the learned Tribunal awarded a sum of Rs.12,000/- towards future economic loss at the rate of Rs.100/- per month, applying the multiplier of ten. It is undisputed that the appellant was working with the Oil & Natural Gas Corporation Ltd. as a Deputy Superintendent (Chemist). It is not the case of the appellant that because of this accident, he had suffered any incapability or his working capacity was reduced. It is also not the case of the appellant that after suffering the injuries, his future prospects are tarnished. The said amount of Rs.12,000/-, ordinarily, could not be awarded in favour of a person, who

had nothing to lose in future,but, as the learned Tribunal below had awarded the sum and there is no cross appeal or cross objections, I will not interfere with that. It is undisputed that for a period of five days, as an indoor patient and for a period of sixty days, as a house patient, the learned Tribunal below had awarded a sum of Rs.7,500/- to the claimant under the head of pain, shock and suffering. Pain shock and suffering of a person cannot be measured in terms of money and the Court is required to apply the guesswork to come to some figure, which is neither unjust nor benevolent at the cost of others. In the present case, in the opinion of this Court, for two simple injuries, awarding of sum of Rs.7,500/- cannot be termed to be on the lower side.

6. The learned Tribunal below had given cogent reasons for making such award. In view of the reasons stated by the learned Tribunal below and for the reasons aforesaid, I do not think that there is any scope for interference. The appeal deserves to and is, accordingly, dismissed. No costs.

[R.S.Garg, J.]

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